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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,249	09/03/2004	Marino Douglas Scotti	270051.401	5248

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EXAMINER

SOTELO, JESUS D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/711,249	Applicant(s) SCOTTI, MARINO DOUGLAS	
	Examiner Jesús D. Sotelo	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3,9,10,12-15,21,22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 4-8,11,16-20 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/23/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-26 are in the application.
2. Applicant is noted that some of the terminology used in the claims and in the specification such as the terms “fast clutch” and “material shortage” is not consistent with terminology used with reference to rubbing strips of the type disclosed. More appropriate terms might be “connection” and “hollow area”, respectively.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 10, 13-15, 22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rubin et al.

Rubin et al discloses a protection and finishing structure of the type claimed including a profile 34 extending in the longitudinal direction and a plurality of fixing means for fixing the profile to a surface distributed along the profile, the protection structure includes a fast connection including a tenon 36,38, and mortise at 22, 24 wherein the mortise element is adapted to be fixed to the surface being protected and the tenon is attached to the profile. The tenon and mortise elements can be attached by pressure in a direction perpendicular to the longitudinal direction. The mortise is attached to a surface by fixing means 72.

5. Claims 1-3, 9, 10, 13-15, 21, 22, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Driver.

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Driver discloses a protection and finishing structure of the type claimed including a profile 240 extending in the longitudinal direction and a plurality of fixing means for fixing the profile to a surface distributed along the profile, the protection structure includes a fast connection including a tenon 248, and mortise 236 wherein the mortise element is adapted to be fixed to the surface being protected and the tenon is attached to the profile. The tenon and mortise elements can be attached by pressure in a direction perpendicular to the longitudinal direction. The mortise is attached to a surface by fixing means 25.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin et al.

Rubin et al discloses making the base from a rigid material such as aluminum, but suggests other materials may be used. To use PVC plastic in lieu of aluminum would have been an obvious matter of design choice to one skilled in the art. The choice of PVC plastic over aluminum would be desirable as more cost effective.

Allowable Subject Matter

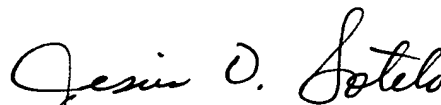
8. Claims 4-8, 11, 16-20, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. - Fri. 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jesús D. Sotelo 4/26/05
Primary Examiner
Art Unit 3617
KNX 03D69 ☺

sotelo;jds
April 26, 2005